

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

FILED
03 JUN 25 AM 9:12
U.S. DISTRICT COURT
N.D. OF ALABAMA

ERIC ANTHONY RONEY,

Plaintiff ,

v.

OFFICER FOSTER, Jailer,

Defendant.

CV 00-HGD-0282-S

MEMORANDUM OF OPINION

Plaintiff and defendant were properly notified that the above case was set for jury trial on June 24, 2003, at 10:00 a.m. Both parties filed narrative statements, and plaintiff requested that witnesses be subpoenaed to appear on his behalf at trial. At 10:16 a.m., the parties were called to order. Present in court were defendant Foster, and his counsel of record, Mr. David Lee. However, plaintiff was not present in the courtroom.

At that time, Mr. Lee moved to dismiss this case with prejudice for lack of prosecution on behalf of defendant Foster individually, and in his official capacity as an Shelby County Jail officer. After careful consideration of defendant's motion, this Court's own observance of an individual similar to the plaintiff's description outside the entrance of the courtroom at approximately 9:15 a.m. this date, and plaintiff's failure to appear in court for trial at 10:00 a.m., the above action is due to be dismissed with prejudice for lack of prosecution.

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Costs are due to be taxed to the plaintiff.

A separate Order in conformity with this Memorandum of Opinion will be entered contemporaneously herewith.

DONE on the 25th day of June, 2003.


HARWELL G. DAVIS, III

UNITED STATES MAGISTRATE JUDGE